

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALONZO E. WYNNE,

Defendant.

8:08CR318

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Notice of Inquiry, ECF No. 242, in which he seeks appointment of counsel to pursue a reduction of his sentence under the Fair Sentencing Act of 2010 and the First Step Act of 2018.

On March 30, 2009, the Defendant was sentenced to a term of imprisonment of 130 months on Count I of the Indictment, charging him with Conspiracy to Possess with Intent to Distribute Crack Cocaine, followed by a term of 60 months imprisonment on Count XI of the Indictment, charging him with Possession of a Firearm in Relation to a Drug Trafficking Crime. The range of imprisonment under the Guidelines for Count I, based on 453.6 grams of cocaine base for which the Defendant was responsible, was 151-188 months.

The Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010), effective August 3, 2010, reduced the penalties for certain crack cocaine offenses. The First Step Act of 2018, Pub. L. 115-____, (2018), permits but does not *require* sentencing judges to reduce sentences imposed prior to the Fair Sentencing Act. The First Step Act specifically *prohibits* a sentencing judge from reducing a sentence that was previously imposed in *accordance* with the Fair Sentencing Act.

If the Fair Sentencing Act were applied retroactively to the Defendant's Guideline calculation, his Base Offense Level would be 30, and his Total Offense Level would be 27. With a Criminal History Category of VI, his range of imprisonment under the Guidelines would be 130-162 months. He was sentenced at the low end of that Guideline range. Accordingly, the Court will not exercise any discretion to resentence the Defendant pursuant to the First Step Act of 2018.

IT IS ORDERED:

1. The Defendant's Notice of Inquiry, ECF No. 242, is denied; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 10th day of January, 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge